

Statement of the evidence in chief  
of George Bernard Shaw before  
the Joint-Committee on Stage  
Plays (Censorship and Theatre  
Licensing).

Printed privately. Confidential.  
All rights reserved. July 1909.

*The Bancroft Library*

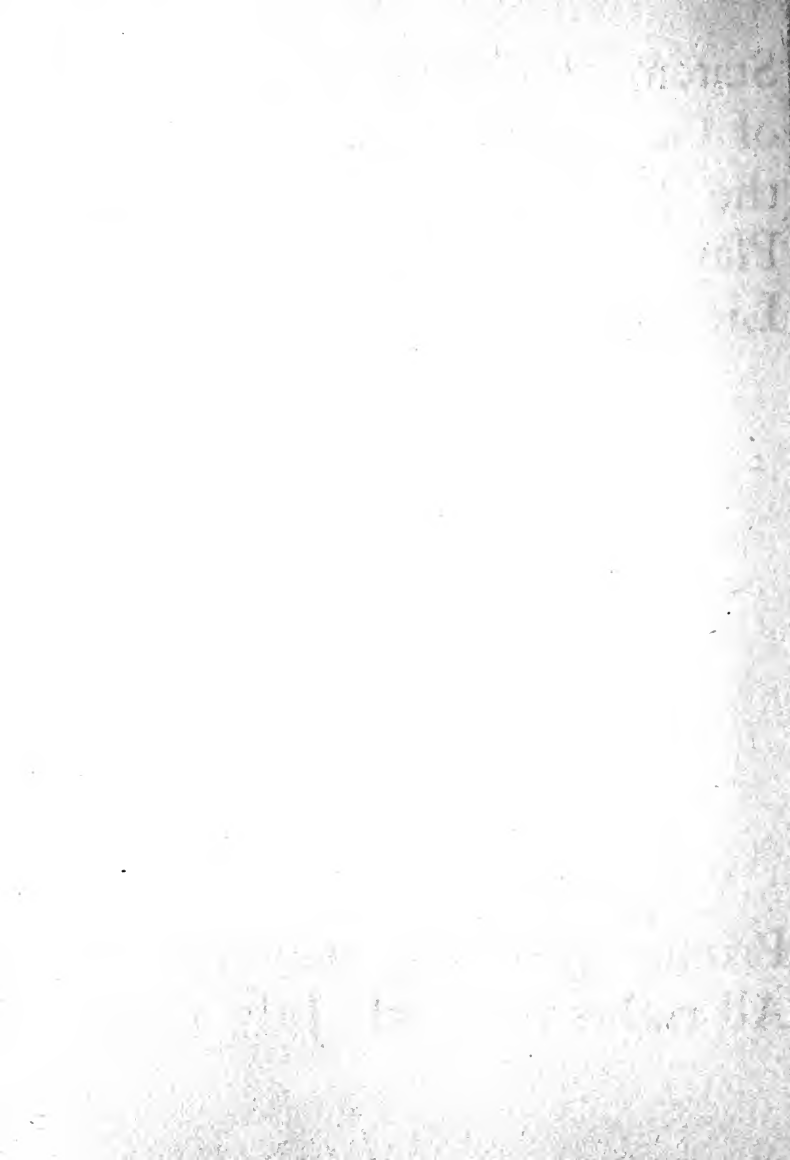
University of California • Berkeley

Gift of

LUCILE HEMING KOSHLAND  
and  
DANIEL EDWARD KOSHLAND

STATEMENT OF THE EVIDENCE  
IN CHIEF OF GEORGE BERNARD  
SHAW BEFORE THE JOINT-COM-  
MITTEE ON STAGE PLAYS

#1400  
PXPPK



Statement of the evidence in chief  
of George Bernard Shaw before  
the Joint-Committee on Stage  
Plays (Censorship and Theatre  
Licensing).

Printed privately. Confidential.  
All rights reserved. July 1909.



The Witness's Qualifications . . .	7
The Definition of Immorality . . .	9
What Toleration means . . .	12
The Case for Toleration . . .	14
The Limits to Toleration . . .	15
The Difference between Law and Censorship . . .	18
Why the Lord Chamberlain? . . .	23
The Diplomatic Objection to the Lord Chamberlain . . .	25
The Objection of Court Etiquet . . .	26
Why not an Enlightened Censorship? . . .	27
The Weakness of the Lord Chamberlain's Department . . .	31
An Enlightened Censorship still worse than the Lord Chamberlain's . . .	33
The Practical Impossibilities of Censorship . . .	36
The Arbitration Proposal . . .	39
The Licensing of Theatres . . .	42
The Distinction between Licensing and Censorship . . .	42
Prostitution and Drink in Theatres . . .	43
Why the Managers dread Local Control . . .	45
Desirable Limitations of Local Control . . .	47
Summary . . .	52

Digitized by the Internet Archive  
in 2008 with funding from  
Microsoft Corporation



Statement of the evidence  
in chief of George Bernard  
Shaw before the Joint-  
Committee on the Censor-  
ship of Theatres.

## THE POLITICAL PRINCIPLE AT STAKE

### The Witness's Qualifications

I AM by profession a playwright. I have been in practice since 1892. I am a member of the Managing Committee of the Society of Authors and of the Dramatic Sub-Committee of that body. I have written nineteen plays, some of which have been translated and performed in all European countries except Turkey, Greece and Portugal. They have been performed extensively in America. Three of them have been refused licenses by the Lord Chamberlain. In one case a license has since been granted. The other two are still unlicensed. I have suffered both in pocket and reputation by the action of the Lord Chamberlain. In other countries I have not come into conflict with the Censorship except in Austria, where the production of a comedy of mine was postponed for a year because it alluded to the part taken by Austria in the Servo-Bulgarian war. This comedy was not one of the plays suppressed in England by the Lord Chamberlain. One of the plays so suppressed was

prosecuted in America by the police in consequence of an immense crowd of disorderly persons having been attracted to the first performance by the Lord Chamberlain's condemnation of it ; but on appeal to a higher court it was decided that the representation was lawful and the intention innocent, since when it has been repeatedly performed.

I am not an ordinary playwright in general practice. I am a specialist in immoral and heretical plays. My reputation has been gained by my persistent struggle to force the public to reconsider its moralities. In particular, I regard much current morality as to economic and sexual relations as disastrously wrong ; and I regard certain doctrines of the Christian religions as understood in England to-day with abhorrence. I write plays with the deliberate object of converting the nation to my opinions in these matters. I have no other effectual incentive to write plays, as I am not dependent on the theatre for my livelihood. If I were prevented from producing immoral and heretical plays, I should cease to write for the theatre, and propagate my views from the platform and through books. I mention these facts to shew that I have a special interest in the achievement by my profession of those rights of liberty of speech and conscience which are matters of course in other professions. I object to censorship not merely because the existing form of it grievously injures and hinders me individually, but on public grounds.

# The Political Principle at Stake 9

## The Definition of Immorality

In dealing with the question of the censorship, everything depends on the correct use of the word immorality, and a careful discrimination between the powers of a magistrate or judge to administer a code, and those of a censor to please himself.

Whatever is contrary to established manners and customs is immoral. An immoral act or doctrine is not necessarily a sinful one : on the contrary, every advance in thought and conduct is by definition immoral until it has converted the majority. For this reason it is of the most enormous importance that immorality should be protected jealously against the attacks of those who have no standard except the standard of custom, and who regard any attack on custom—that is, on morals—as an attack on society, on religion, and on virtue.

A Censor is never intentionally a protector of immorality. He always aims at the protection of morality. Now morality is extremely valuable to society. It imposes conventional conduct on the great mass of persons who are incapable of original ethical judgment, and would be quite lost if they were not in leading-strings devised by lawgivers, philosophers, prophets and poets for their guidance. But morality is not dependent on censorship for protection. It is already powerfully fortified by the magistracy and the whole body of law. Blasphemy, indecency, libel, treason, sedition, obscenity, profanity, and all the

other evils which a censorship is supposed to avert, are punishable by the civil magistrate with all the severity of vehement prejudice. Morality has not only every engine that lawgivers can devise in full operation for its protection, but also that enormous weight of public opinion enforced by social ostracism which is stronger than all the statutes. A censor pretending to protect morality is like a child pushing the cushions of a railway carriage to give itself the sensation of making the train travel at sixty miles an hour. It is immorality, not morality, that needs protection : it is morality, not immorality, that needs restraint ; for morality, with all the dead weight of human inertia and superstition to hang on the back of the pioneer, and all the malice of vulgarity and prejudice to threaten him, is responsible for many persecutions and many martyrdoms.

Persecutions and martyrdoms, however, are trifles compared to the mischief done by censorships in delaying the general march of enlightenment. This can be brought home to us by imagining what would have been the effect of applying to all literature the censorship we still apply to the stage. The works of Linnaeus and the evolutionists of 1790-1830, of Darwin, Wallace, Huxley, Helmholtz, Tyndall, Spencer, Carlyle, Ruskin and Samuel Butler, would not have been published, as they were all immoral and heretical in the very highest degree, and gave pain to many worthy and pious people. They are at present condemned by the Greek and Roman Catholic censorships as unfit for general reading. A

## The Political Principle at Stake 11

ensorship of conduct would have been equally disastrous. The disloyalty of Hampden and of Washington; the revolting immorality of Luther in not only marrying when he was a priest, but actually marrying a nun, the heterodoxy of Galileo; the shocking blasphemies and sacrileges of Mahomet against the idols whom he dethroned to make way for his conception of one god; the still more startling blasphemy of Jesus when he declared God to be the son of man and himself to be the son of God, are all examples of shocking immoralities (every immorality shocks somebody), the suppression and extinction of which would have been more disastrous than the utmost mischief that can be conceived as ensuing from the toleration of vice.

These facts, glaring as they are, are disguised by the transformation of the immoralities into moralities which is constantly going on. Christianity and Mohammedanism, once thought of and dealt with exactly as Anarchism is thought of and dealt with today, have become established religions; and fresh immoralities are persecuted in their name. The truth is that the vast majority of persons professing these religions have never been anything but simple moralists. The respectable Englishman who is a Christian because he was born in Clapham would be a Mahometan for the cognate reason if he had been born in Constantinople. He has never willingly tolerated immorality. He did not adopt any innovation until it had become moral; and then he adopted it, not on its merits, but solely because it had become moral. In doing so he never

realized that it had ever been immoral : consequently its early struggles taught him no lesson ; and he has opposed the next step in human progress as indigantly as if neither manners, customs, nor thought had ever changed since the beginning of the world. Toleration must be imposed on him as a mystic and painful duty by his spiritual and political leaders, or he will condemn the world to stagnation, which is the penalty of an inflexible morality.

### What Toleration Means

This must be done all the more arbitrarily because it is not possible to make the ordinary moral man understand what toleration and liberty really mean. He will accept them verbally with alacrity, even with enthusiasm, because the word toleration has been moralized by eminent Whigs ; but what he means by toleration is toleration of doctrines that he considers enlightened, and, by liberty, liberty to do what he considers right : that is, he does not mean toleration or liberty at all ; for there is no need to tolerate what appears enlightened or to claim liberty to do what most people consider right. Toleration and liberty have no sense or use except as toleration of opinions that are considered damnable and liberty to do what seems wrong. Setting Englishmen free to marry their deceased wife's sisters is not tolerated by the people who approve of it, but by the people who regard it as incestuous. The admission of Jews to parliament and Catholic Emancipation needed no

## The Political Principle at Stake 13

toleration from Jews and Catholics : the toleration they obtained was that of the people who regarded the one measure as a condonation of the crucifixion, and the other as a facilitation of idolatry. Clearly such toleration is not clamored for by the multitude or by the press which reflects its prejudices. It is essentially one of those abnegations of passion and prejudice which the common man submits to because uncommon men whom he respects as wiser than himself assure him that it must be so, or the higher affairs of human destiny will suffer.

Such submission is the more difficult because the arguments against tolerating immorality are the same as the arguments against tolerating murder and theft ; and this is why the censor seems to the inconsiderate as obviously desirable a functionary as the police magistrate. But there is this simple and tremendous difference between the cases : that whereas no evil can conceivably result from the total suppression of murder and theft, and all communities prosper in direct proportion to such suppression, the total suppression of immorality, especially in matters of religion and sex, would stop enlightenment and produce what used to be called a Chinese civilization until the Chinese lately took to immoral courses by permitting railway contractors to desecrate the graves of their ancestors, and their soldiers to wear clothes which indecently revealed the fact that they had legs and waists and even posteriors. At about the same moment a few bold Englishwomen ventured on the immorality of riding astride their horses, a practice

that has since established itself so successfully that before another generation has passed away there may not be a new side-saddle in England, or a woman who could use it if there was.

### The Case for Toleration

Accordingly, there has arisen among wise and far-sighted men a perception of the need for setting certain departments of human activity entirely free from legal interference. This has nothing to do with any sympathy these liberators may themselves have with immoral views. A man with the strongest conviction of the Divine ordering of the universe and of the superiority of monarchy to all forms of government may nevertheless quite consistently and conscientiously be ready to lay down his life for the right of every man to advocate atheism or republicanism if he believes in them. An attack on morals may turn out to be the salvation of the race. A hundred years ago nobody foresaw that Tom Paine's centenary would be the subject of a laudatory special article in the Times ; and only a few understood that the persecution of his works and the transportation of men for the felony of reading them was a mischievous mistake. Even less, perhaps, could they have guessed that Proudhon, who became notorious by his essay entitled "What is Property? Theft," would have received, on the same occasion and in the same paper, a respectful consideration which nobody would now dream of according to Lord Liverpool or Lord



## The Political Principle at Stake 15

Brougham. Nevertheless there was a mass of evidence to shew that such a development was not only possible but fairly probable, and that the risk of suppressing liberty of propaganda was far graver than the risk of Paine's or Proudhon's writings wrecking civilization. Now there was no such evidence in favor of tolerating the cutting of throats and the robbing of tills. No case whatever can be made out for the statement that a nation cannot do without common thieves and homicidal ruffians. But an overwhelming case can be made out for the statement that no nation can prosper or even continue to exist without heretics and advocates of shockingly immoral doctrines. The Inquisition and the Star Chamber, which were nothing but censorships, made ruthless war on impiety and immorality. The result was once familiar to Englishmen, though of late years it seems to have been forgotten. It cost England a revolution to get rid of the Star Chamber. Spain did not get rid of the Inquisition, and paid for that omission by becoming a barely third-rate power politically, and intellectually no power at all, in the Europe she had once dominated as the mightiest of the Christian empires.

### The Limits to Toleration

But the large toleration these considerations dictate has limits. For example, though we tolerate, and rightly tolerate, the propaganda of Anarchism as a political theory which embraces all that is valuable in the doctrine of *Laisser-Faire* and the

method of Free Trade as well as all that is shocking in the views of Bakounine, we clearly cannot, or at all events will not, tolerate assassination of rulers on the ground that it is "propaganda by deed" or sociological experiment. A play inciting to such an assassination cannot claim the privileges of heresy or immorality, because no case can be made out in support of assassination as an indispensable instrument of progress. Now it happens that we have in the Julius Cæsar of Shakespear a play which the Tsar of Russia or the Governor-General of India would hardly care to see performed in their capitals just now. It is an artistic treasure; but it glorifies a murder which Goethe described as the worst crime ever committed. It may quite possibly have helped the regicides of 1649 to see themselves, as it certainly helped generations of Whig statesmen to see them, in a heroic light; and it unquestionably vindicates and ennobles a conspirator who assassinated the head of the Roman State not because he abused his position but solely because he occupied it, thus affirming the extreme republican principle that all kings, good or bad, should be killed because kingship and freedom cannot live together. Under certain circumstances this vindication and ennoblement might act as an incitement to an actual assassination as well as to Plutarchian republicanism; for it is one thing to advocate republicanism or royalism: it is quite another to make a hero of Brutus or Ravailac, or a heroine of Charlotte Corday. Assassination is the extreme form of censorship; and it seems hard to

## The Political Principle at Stake 17

justify an incitement to it on anti-censorial principles. The very people who would have scouted the notion of prohibiting the performances of Julius Cæsar at His Majesty's Theatre in London last year, might now entertain very seriously a proposal to exclude Indians from them, and to suppress the play completely in Calcutta and Dublin; for if the assassin of Cæsar was a hero, why not the assassins of Lord Frederick Cavendish, Presidents Lincoln and McKinley, and Sir Curzon Wylie? Here is a strong case for some constitutional means of preventing the performance of a play. True, it is an equally strong case for preventing the circulation of the Bible, which was always in the hands of our regicides; but as the Roman Catholic Church does not hesitate to accept that consequence of the censorial principle, it does not invalidate the argument.

Take another actual case. A modern comedy, *Arms and The Man*, though not a comedy of politics, is nevertheless so far historical that it reveals the unacknowledged fact that as the Servo-Bulgarian War of 1885 was much more than a struggle between the Servians and Bulgarians, the troops engaged were officered by two European Powers of the first magnitude. In consequence, the performance of the play was for some time forbidden in Vienna, and more recently it gave offence in Rome at a moment when popular feeling was excited as to the relations of Austria with the Balkan States. Now if a comedy so remote from political passion

as *Arms and The Man* can, merely because it refers to political facts, become so inconvenient and inopportune that Foreign Offices take the trouble to have its production postponed, what may not be the effect of what is called a patriotic drama produced at a moment when the balance is quivering between peace and war? Is there not something to be said for a political censorship, if not for a moral one? May not those continental governments who leave the stage practically free in every other respect, but muzzle it politically, be justified by the practical exigencies of the situation?

### The Difference between Law and Censorship

The answer is that a pamphlet, a newspaper article, or a resolution moved at a political meeting can do all the mischief that a play can, and often more; yet we do not set up a permanent censorship of the press or of political meetings. Any journalist may publish an article, any demagogue may deliver a speech without giving notice to the government or obtaining its license. The risk of such freedom is great; but it is the price of our political liberty, and we think it worth paying. We may abrogate it in emergencies by a Coercion Act, a suspension of the Habeas Corpus Act, or a proclamation of martial law, just as we stop the traffic in a street during a fire, or shoot thieves at sight if they loot after an earthquake. But when the emergency is past, liberty is restored everywhere except in the theatre. The Act of 1843 is a

## The Political Principle at Stake 19

permanent Coercion Act for the theatre, a permanent suspension of the Habeas Corpus Act as far as plays are concerned, a permanent proclamation of martial law with a single official substituted for a court martial. It is, in fact, assumed that actors, playwrights and theatre managers are dangerous and dissolute characters whose existence creates a chronic state of emergency, and who must be treated as earthquake looters are treated. It is not necessary now to discredit this assumption. It was broken down by the late Sir Henry Irving when he finally shamed the Government into extending to his profession the official recognition enjoyed by the other branches of fine art. Today we have on the roll of knighthood actors, authors and managers. The rogue and vagabond theory of the depravity of the theatre is as dead officially as it is in general society ; and with it has perished the sole excuse for the Act of 1843 and for the denial to the theatre of the liberties secured, at far greater social risk, to the press and the platform.

There is no question here of giving the theatre any larger liberties than the press and the platform, or of claiming larger powers for Shakespear to eulogize Brutus than Lord Rosebery has to eulogize Cromwell. The abolition of the censorship does not involve the abolition of the magistrate and of the whole civil and criminal code. On the contrary, it would make the theatre more effectually subject to them than it is at present ; for once a play now runs the gauntlet of the censorship, it is practically placed above the

law. It is almost humiliating to have to demonstrate the essential difference between a censor and a magistrate or a sanitary inspector ; but it is impossible to ignore the carelessness with which even distinguished critics of the theatre assume that all the arguments proper to the support of a magistracy and body of jurisprudence apply equally to a censorship.

A magistrate has laws to administer : a censor has nothing but his own opinion. A judge leaves the question of guilt to the jury : the censor is jury and judge as well as lawgiver. A magistrate may be strongly prejudiced against an atheist or an anti-vaccinator, just as a sanitary inspector may have formed a careful opinion that drains are less healthy than cesspools ; but the magistrate must allow the atheist to affirm instead of swear, and must grant the anti-vaccinator an exemption certificate, when their demands are lawfully made ; and the inspector must compel the builder to make drains and must prosecute him if he makes cesspools. The law may be only the intolerance of the community ; but it is a defined and limited intolerance. The limitation is sometimes carried so far that a judge cannot inflict the penalty for housebreaking on a burglar who can prove that he found the door open and therefore made only an unlawful entry. On the other hand, it is sometimes so vague, as for example in the case of the American law against obscenity, that it makes the magistrate virtually a censor. But in the main a citizen can ascertain what he may do and what he may not do ; and, though no one knows better than a magistrate

## The Political Principle at Stake 21

that a single ill-conducted family may demoralize a whole street, no magistrate can imprison or otherwise restrain him on the ground that his immorality may corrupt his neighbors. He can prevent him from carrying certain specified weapons, but not from handling pokers, table-knives, bricks or bottles of corrosive fluid, on the ground that he might use them to commit murder or inflict malicious injury. He has no general power to prevent citizens from selling unhealthy or poisonous substances, or to judge for himself what substances are unhealthy and what wholesome, what poisonous and what innocuous : what he *can* do is to prevent anybody who has not a specific qualification from selling certain specified poisons of which a schedule is kept. Nobody is forbidden to sell minerals without a license ; but everybody is forbidden to sell silver without a license. When the law has forgotten some atrocious sin—for instance, contracting marriage whilst suffering from contagious disease—the magistrate cannot arrest or punish the wrongdoer, however he may abhor his wickedness. In short, no man is lawfully at the mercy of the magistrate's personal caprice, prejudice, ignorance, superstition, temper, stupidity, resentment, timidity, ambition, or private conviction. But a playwright's livelihood, his reputation, and his inspiration and mission are at the personal mercy of the censor. The two do not stand, as the criminal and the judge stand, in the presence of a law that binds them both equally, and was made by neither of them, but by the deliberate collective wisdom of the community. The

only law that affects them is the Act of 1843, which empowers one of them to do absolutely and finally what he likes with the other's work. And when it is remembered that the slave in this case is the man whose profession is that of Eschylus and Euripides, of Shakespear and Goethe, of Tolstoy and Ibsen, and the master the holder of a party appointment which by the nature of its duties practically excludes the possibility of its acceptance by a serious statesman or great lawyer, it will be seen that the playwrights are justified in reproaching the framers of that Act for having failed not only to appreciate the immense importance of the theatre as a most powerful instrument for teaching the nation how and what to think and feel, but even to conceive that those who make their living by the theatre are normal human beings with the common rights of English citizens. In this extremity of inconsiderateness it is not surprising that they also did not trouble themselves to study the difference between a censor and a magistrate. And it will be found that almost all the people who disinterestedly defend the censorship today are defending him on the assumption that there is no constitutional difference between him and any other functionary whose duty it is to restrain crime and disorder.

One further difference remains to be noted. As a magistrate grows old his mind may change or decay ; but the law remains the same. The censorship of the theatre fluctuates with every change in the views and character of the man who exercises it. And what this implies can only be appreciated by those who can



## The Political Principle at Stake 23

imagine what the effect on the mind must be of the duty of reading through every play that is produced in the kingdom year in, year out.

### Why the Lord Chamberlain ?

What may be called the high political case against censorship as a principle is now complete. The pleadings are those which have already freed books and pulpits and political platforms in England from censorship, if not from occasional legal persecution. The stage alone remains under a censorship of a grotesquely unsuitable kind. No play can be performed if the Lord Chamberlain happens to disapprove of it. And the Lord Chamberlain's functions have no sort of relationship to dramatic literature. A great judge of literature, a far-seeing statesman, a born champion of liberty of conscience and intellectual integrity—say a Milton, a Chesterfield, a Bentham—would be a very bad Lord Chamberlain : so bad, in fact, that his exclusion from such a post may be regarded as decreed by natural law. On the other hand, a good Lord Chamberlain would be a stickler for morals in the narrowest sense, a busy-body, a man to whom a matter of two inches in the length of a gentleman's sword or the absence of a feather from a lady's head-dress would be a graver matter than the Habeas Corpus Act. The Lord Chamberlain, as Censor of the theatre, is a direct descendant of the King's Master of the Revels, appointed in 1544 by Henry VIII. to keep order

among the players and musicians of that day when they performed at Court. This first appearance of the theatrical censor in politics as the whipper-in of the player, with its conception of the player as a rich man's servant hired to amuse him, and, outside his professional duties, as a gay, disorderly, anarchic spoilt child, half privileged, half outlawed, probably as much vagabond as actor, is the real foundation of the subjection of the whole profession, actors, managers, authors and all, to the despotic authority of an officer whose business it is to preserve decorum among menials. It must be remembered that it was not until a hundred years later, in the reaction against the Puritans, that a woman could appear on the English stage without being pelted off as the Italian actresses were. The theatrical profession was regarded as a shameless one; and it is only of late years that actresses have at last succeeded in living down the assumption that actress and prostitute are synonymous terms, and made good their position in respectable society. This makes the survival of the old ostracism in the Act of 1843 intolerably galling; and though it explains the apparently unaccountable absurdity of choosing as Censor of dramatic literature an official whose functions and qualifications have nothing whatever to do with literature, it also explains why the present arrangement is not only criticised as an institution, but resented as an insult.

### The Diplomatic Objection to the Lord Chamberlain

There is another reason, quite unconnected with the susceptibilities of authors, which makes it undesirable that a member of the King's Household should be responsible for the character and tendency of plays. The drama, dealing with all departments of human life, is necessarily political. Recent events have shown—what indeed needed no demonstration—that it is impossible to prevent inferences being made, both at home and abroad, from the action of the Lord Chamberlain. The most talked-about play of the present year (1909), *An Englishman's Home*, has for its main interest an invasion of England by a fictitious power which is understood, as it is meant to be understood, to represent Germany. The lesson taught by the play is the danger of invasion and the need for every English citizen to be a soldier. The Lord Chamberlain licensed this play, but refused to license a parody of it. Shortly afterwards he refused to license another play in which the fear of a German invasion was ridiculed. The German press drew the inevitable inference that the Lord Chamberlain was an anti-German alarmist, and that his opinions were a reflection of those prevailing in St. James's Palace. Immediately after this, the Lord Chamberlain licensed the play. Whether the inference, as far as the Lord Chamberlain was concerned, was justified, is of no consequence. What is im-

portant is that it was sure to be made, justly or unjustly, and extended from the Lord Chamberlain to the Throne.

### The Objection of Court Etiquet

There is another objection to the Lord Chamberlain's censorship which affects the author's choice of subject. Formerly very little heed was given in England to the susceptibilities of foreign courts. For instance, the notion that the Mikado of Japan should be as sacred to the English playwright as he is to the Japanese Lord Chamberlain would have seemed grotesque a generation ago. Now that the maintenance of "entente cordiale" between nations is one of the most prominent and most useful functions of the crown, the freedom of authors to deal with political subjects, even historically, is seriously threatened by the way in which the censorship makes the King responsible for the contents of every play. One author—the writer of these lines, in fact—has long desired to dramatize the life of Mahomet. But the possibility of a protest from the Turkish ambassador—or the fear of it—causing the Lord Chamberlain to refuse to license such a play has prevented the play from being written. Now, if the censorship were abolished, nobody but the author could be held responsible for the play. The Turkish ambassador does not now protest against the publication of Carlyle's essay on the prophet, or of the English translations of the Koran in the prefaces to which

## The Political Principle at Stake 27

Mahomet is criticized as an impostor, or of the older books in which he is reviled as Mahound and classed with the devil himself. But if these publications had to be licensed by the Lord Chamberlain it would be impossible for the King to allow the license to be issued, as he would thereby be made responsible for the opinions expressed. This restriction of the historical drama is an unmixed evil. Great religious leaders are more interesting and more important subjects for the dramatist than great conquerors. It is a misfortune that public opinion would not tolerate a dramatization of Mahomet in Constantinople. But to prohibit it here, where public opinion would tolerate it, is an absurdity which, if applied in all directions, would make it impossible for the Queen to receive a Turkish ambassador without veiling herself, or the Dean and Chapter of St. Paul's to display a cross on the summit of their Cathedral in a city occupied largely and influentially by Jews. Court etiquette is no doubt an excellent thing for court ceremonies ; but to attempt to impose it on the drama is about as sensible as an attempt to make everybody in London wear court dress.

### Why not an Enlightened Censorship ?

In the above cases the general question of censorship is separable from the question of the present form of it. Every one who condemns the principle of censorship must also condemn the Lord Chamberlain's control of the drama ; but those who approve

of the principle do not necessarily approve of the Lord Chamberlain being the Censor *ex officio*. They may, however, be entirely opposed to popular liberties, and may conclude from what has been said, not that the stage should be made as free as the church, press or platform, but that these institutions should be censored as strictly as the stage. It will seem obvious to them that nothing is needed to remove all objections to a censorship except the placing of its powers in better hands.

Now though the transfer of the censorship to, say, the Lord Chancellor, or the Primate, or a Cabinet Minister, would be much less humiliating to the persons immediately concerned, the inherent vices of the institution would not be appreciably less disastrous. They would even be aggravated, for reasons which do not appear on the surface, and therefore need to be followed with some attention.

It is often said that the public is the real censor. That this is to some extent true is proved by the fact that plays which are licensed and produced in London have to be expurgated for the provinces. This does not mean that the provinces are more strait-laced, but simply that in many provincial towns there is only one theatre for all classes and all tastes, whereas in London there are separate theatres for separate sections of playgoers ; so that, for example, Sir Herbert Beerbohm Tree can conduct His Majesty's Theatre without the slightest regard to the tastes of the frequenters of the Gaiety Theatre ; and Mr. George Edwardes can conduct the Gaiety

## The Political Principle at Stake 29

Theatre without catering in any way for lovers of Shakespear. Thus the farcical comedy which has scandalized the critics in London by the libertinage of its jests is played to the respectable dress circle of Northampton with these same jests slurred over so as to be imperceptible by even the most prurient spectator. The public, in short, takes care that nobody shall outrage it.

But the public also takes care that nobody shall starve it, or regulate its dramatic diet as a school-mistress regulates the reading of her pupils. Even when it wishes to be debauched, no censor can—or at least no censor does—stand out against it. If a play is irresistibly amusing, it gets licensed no matter what its moral aspect may be. A brilliant instance is the *Divorçons* of the late Victorien Sardou, which may not have been the naughtiest play of the 19th century, but was certainly the very naughtiest that any English manager in his senses would have ventured to produce. Nevertheless, being a very amusing play, it passed the licenser with the exception of a reference to impotence as a ground for divorce which no English actress would have ventured on in any case. Within the last few months a very amusing comedy with a strongly polygamous moral was found irresistible by the Lord Chamberlain. Plenty of fun and a happy ending will get anything licensed, because the public will have it so, and the Examiner of Plays, as the holder of the office testified before the Commission of 1892 (Report, page 330), feels with the public and knows that his office could not survive

a widespread unpopularity. In short, the support of the mob—that is, of the unreasoning, unorganized, uninstructed mass of popular sentiment—is indispensable to the censorship as it exists today in England. This is the explanation of the toleration by the Lord Chamberlain of coarse and vicious plays. It is not long since a judge before whom a licensed play came in the course of a lawsuit expressed his scandalized astonishment at the licensing of such a work. Eminent churchmen have made similar protests. In some plays the simulation of criminal assaults on the stage has been carried to a point at which a step further would have involved the interference of the police. Provided the treatment of the theme is gaily or hypocritically popular, and the ending happy, the indulgence of the Lord Chamberlain can be counted on. On the other hand, anything unpleasing and unpopular is rigorously censored. Adultery and prostitution are tolerated and even encouraged to such an extent that plays which do not deal with them are commonly said not to be plays at all. But if any of the unpleasing consequences of adultery and prostitution—for instance, an *unsuccessful* illegal operation (successful ones are tolerated) or venereal disease—are mentioned, the play is prohibited. This principle of shielding the playgoer from unpleasant reflections is carried so far that when a play was submitted for license in which the relations of a prostitute with all the male characters in the piece was described as “immoral,” the Examiner of Plays objected to that passage, though he made no objection



## The Political Principle at Stake 31

to the relations themselves. The Lord Chamberlain dare not, in short, attempt to exclude from the stage the tragedies of murder and lust, or the farces of mendacity, adultery and dissolute gaiety in which vulgar people delight. But when these same vulgar people are threatened with an unpopular play in which dissoluteness is shown to be no laughing matter, it is prohibited at once amid the vulgar applause, the net result being that vice is made delightful and virtue banned by the very institution which is supported on the understanding that it produces exactly the opposite result.

### The Weakness of the Lord Chamberlain's Department

Now comes the question, Why is our censorship, armed as it is with apparently autocratic powers, so scandalously timid in the face of the mob? Why is it not as autocratic in dealing with playwrights below the average as with those above it? The answer is that its position is really a very weak one. It has no direct coercive forces, no funds to institute prosecutions and recover the legal penalties of defying it, no powers of arrest or imprisonment, in short, none of the guarantees of autocracy. What it can do is to refuse to renew the license of a theatre at which its orders are disobeyed. When it happens that a theatre is about to be demolished, as was the case recently with the Imperial Theatre after it had passed into the hands of the Wesleyan Methodists, unlicensed plays can be performed, technically in private, but really

in full publicity, without risk. The prohibited plays of Brieux and Ibsen have been performed in London in this way with complete impunity. But the impunity is not confined to condemned theatres. Not long ago a West End manager allowed a prohibited play to be performed at his theatre, taking his chance of losing his license in consequence. The event proved that the manager was justified in regarding the risk as negligible; for the Lord Chamberlain's remedy—the closing of a popular and well-conducted theatre—was far too extreme to be practicable. Unless the play had so outraged public opinion as to make the manager odious and provoke a clamor for his exemplary punishment, the Lord Chamberlain could only have had his revenge at the risk of having his powers abolished as unsupportably tyrannical.

The Lord Chamberlain then has his powers so adjusted that he is tyrannical just where it is important that he should be tolerant, and tolerant just where he could screw up the standard a little by being tyrannical. His plea that there are unmentionable depths to which managers and authors would descend if he did not prevent them is disproved by the plain fact that his indulgence goes as far as the police, and sometimes further than the public, will let it. If our judges had so little power there would be no law in England. If our churches had so much, there would be no theatre, no literature, no science, no art, possibly no England. The institution is at once absurdly despotic and abjectly weak.

## The Political Principle at Stake 33

### An Enlightened Censorship still worse than the Lord Chamberlain's

Clearly a censorship of judges, bishops, or statesmen would not be in this abject condition. It would no doubt make short work of the coarse and vicious pieces which now enjoy the protection of the Lord Chamberlain, or at least of those of them in which the vulgarity and vice are discoverable by merely reading the prompt copy. But it would certainly disappoint the main hope of its advocates: the hope that it would protect and foster the higher drama. It would do nothing of the sort. On the contrary, it would inevitably suppress it more completely than the Lord Chamberlain does, because it would understand it better. The one play of Ibsen's which is prohibited on the English stage, *Ghosts*, is far less subversive than *A Doll's House*. But the Lord Chamberlain does not meddle with such far-reaching matters as the tendency of a play. He refuses to license *Ghosts* exactly as he would refuse to license *Hamlet* if it were submitted to him as a new play. He would license even *Hamlet* if certain alterations were made in it. He would disallow the incestuous relationship between the King and Queen. He would probably insist on the substitution of some fictitious country for Denmark in deference to the near relations of our reigning house with that realm. He would certainly make it an absolute condition that the closet scene, in which a son, in an agony of shame and revulsion,

reproaches his mother for her relations with his uncle, should be struck out as unbearably horrifying and improper. But compliance with these conditions would satisfy him. He would raise no speculative objections to the tendency of the play.

This indifference to the larger issues of a theatrical performance could not be safely predicated of an enlightened censorship. Such a censorship might be more liberal in its toleration of matters which are only objected to on the ground that they are not usually discussed in general social conversation or in the presence of children; but it would presumably have a far deeper insight to and concern for the real ethical tendency of the play. For instance, had it been in existence during the last quarter of a century, it would have perceived that those plays of Ibsen's which have been licensed without question are fundamentally immoral to an altogether extraordinary degree. Every one of them is a deliberate act of war on society as at present constituted. Religion, marriage, ordinary respectability, are subjected to a destructive exposure and criticism which seems to mere moralists—that is, to persons of no more than average depth of mind—to be diabolical. It is no exaggeration to say that Ibsen gained his overwhelming reputation by undertaking a task of no less magnitude than changing the mind of Europe with the view of changing its morals. Now you cannot license work of that sort without making yourself responsible for it. The Lord Chamberlain accepted the responsibility because he did not understand it or concern himself about it.

## The Political Principle at Stake 35

But what really enlightened and conscientious official dare take such a responsibility? The strength of character and range of vision which made Ibsen capable of it are not to be expected from any official, however eminent. It is true that an enlightened censor might, whilst shrinking even with horror from Ibsen's views, perceive that any nation which suppressed Ibsen would presently find itself falling behind the nations which tolerated him just as Spain fell behind England ; but the proper action to take on such a conviction is the abdication of censorship, not the practice of it. As long as a censor is a censor, he cannot endorse by his license opinions which seem to him dangerously heretical.

We may therefore conclude that the more enlightened a censorship is, the worse it would serve us. The Lord Chamberlain, an obviously unenlightened Censor, prohibits *Ghosts* and licenses all the rest of Ibsen's plays. An enlightened censorship would possibly license *Ghosts* ; but it would certainly suppress many of the other plays. It would suppress subversiveness as well as what is called bad taste. The Lord Chamberlain prohibits one play by Sophocles because, like *Hamlet*, it mentions the subject of incest ; but an enlightened censorship might suppress all the plays of Euripides because Euripides, like Ibsen, was a revolutionary Free-thinker. Under the Lord Chamberlain, we can smuggle a good deal of immoral drama and almost as much coarsely vulgar and furtively lascivious drama as we like. Under a college of cardinals,

or bishops, or judges, or any other conceivable form of experts in morals, philosophy, religion, or politics, we should get little except stagnant mediocrity.

### The Practical Impossibilities of Censorship

There is, besides, a crushing material difficulty in the way of an enlightened censorship. It is not too much to say that the work involved would drive a man of any intellectual rank mad. Consider, for example, the Christmas pantomimes. Imagine a judge of the High Court, or an archbishop, or a Cabinet Minister, or an eminent man of letters, earning his living by reading through the mass of trivial doggrel represented by all the pantomimes which are put into rehearsal simultaneously at the end of every year. The proposal to put such mind-destroying drudgery upon an official of the class implied by the demand for an enlightened censorship falls through the moment we realize what it implies in practice.

Another material difficulty is that no play can be judged by merely reading the dialogue. To be fully effective a censor should witness the performance. The *mise-en-scène* of a play is as much a part of it as the words spoken on the stage. No censor could possibly object to such a speech as "Might I speak to you for a moment, miss"; yet that apparently innocent phrase has often been made offensively improper on the stage by popular low comedians, with the effect of changing the whole character and

## The Political Principle at Stake 37

meaning of the play as understood by the official Examiner. In one of the plays of the present season, the dialogue was that of a crude melodrama dealing in the most conventionally correct manner with the fortunes of a good-hearted and virtuous girl. Its morality was that of the Sunday school. But the principal actress, between two speeches which contained no reference to her action, changed her under-clothing on the stage ! It is true that in this case the actress was so much better than her part that she succeeded in turning what was meant as an impropriety into an inoffensive stroke of realism ; yet it is none the less clear that stage business of this character, on which there can be no check except the actual presence of a censor in the theatre, might convert any dialogue, however innocent, into just the sort of entertainment against which the censor is supposed to protect the public.

It was this practical impossibility that prevented the London County Council from attempting to apply a censorship of the Lord Chamberlain's pattern to the London music halls. A proposal to examine all entertainments before permitting their performance was actually made ; and it was abandoned, not in the least as contrary to the liberty of the stage, but because the executive problem of how to do it at once reduced the proposal to absurdity. Even if the Council devoted all its time to witnessing rehearsals of variety performances, and putting each item to the vote, possibly after a prolonged discussion followed by a division, the work would

still fall into arrear. No committee could be induced to undertake such a task. The attachment of an inspector of morals to each music hall would have meant an appreciable addition to the ratepayers' burden. In the face of such difficulties the proposal melted away. Had it been pushed through, and the inspectors appointed, each of them would have become a censor; and the whole body of inspectors would have become a *police des mœurs*. Those who know the history of such police forces on the continent will understand how impossible it would be to procure inspectors whose characters would stand the strain of their opportunities of corruption, both pecuniary and personal, at such salaries as a local authority could be persuaded to offer.

It has been suggested that the present censorship should be supplemented by a board of experts, who should deal, not with the whole mass of plays sent up for license, but only those which the Examiner of Plays refuses to pass. As the number of plays which the Examiner refuses to pass is never great enough to occupy a Board in permanent session with regular salaries, and as casual employment is not compatible with public responsibility, this proposal would work out in practice as an addition to the duties of some existing functionary. A Secretary of State would be objectionable as likely to be biassed politically. An ecclesiastical referee might be biassed against the theatre altogether. A judge in chambers would be the proper authority. This plan would combine the inevitable intolerance of an enlightened censorship with the



## The Political Principle at Stake 39

popular laxity of the Lord Chamberlain. The judge would suppress the pioneers, whilst the Examiner of Plays issued two guinea certificates for the vulgar and vicious plays. For this reason the plan would no doubt be popular ; but it would be very much as a relaxation of the administration of the Public Health Acts accompanied by a cheapening of gin would be popular.

### The Arbitration Proposal

On the occasion of a recent deputation of playwrights to the Prime Minister it was suggested that if a censorship be inevitable, provision should be made for an appeal from the Lord Chamberlain in cases of refusal of license. The authors of this suggestion propose that the Lord Chamberlain shall choose one umpire and the author another. The two umpires shall then elect a referee, whose decision shall be final.

This proposal is not likely to be entertained by constitutional lawyers. It is a naïve offer to accept the method of arbitration in what is essentially a matter, not between one private individual or body and another, but between a public offender and the State. It will presumably be ruled out as a proposal to refer a case of manslaughter to arbitration would be ruled out. But even if it were constitutionally sound, it bears all the marks of that practical inexperience which leads men to believe that arbitration either costs nothing or is at least cheaper than law. Who is to pay for the time of the three arbitrators,

presumably men of high professional standing? The author may not be able : the manager may not be willing : neither of them should be called upon to pay for a public service otherwise than by their contributions to the revenue. Clearly the State should pay. But even so, the difficulties are only beginning. A license is seldom refused except on grounds which are controversial. The two arbitrators selected by the opposed parties to the controversy are to agree to leave the decision to a third party unanimously chosen by themselves. That is very far from being a simple solution. An attempt to shorten and simplify the passing of the Finance Bill by referring it to an arbitrator chosen unanimously by Mr. Asquith and Mr. Balfour might not improbably cost more and last longer than a civil war. And why should the chosen referee—if he ever succeeded in getting chosen—be assumed to be a safer authority than the Examiner of Plays? He would certainly be a less responsible one : in fact, being (however eminent) a casual person called in to settle a single case, he would be virtually irresponsible. Worse still, he would take all responsibility away from the Lord Chamberlain, who is at least an official of the King's Household and a nominee of the Government. The Lord Chamberlain, with all his shortcomings, thinks twice before he refuses a license, knowing that his refusal is final and may promptly be made public. But if he could transfer his responsibility to an arbitrator, he would naturally do so whenever he felt the slightest misgiving, or whenever, for diplomatic reasons, the license

## The Political Principle at Stake 41

would come more gracefully from an authority unconnected with the court. These considerations, added to the general objection to the principle of censorship, seem sufficient to put the arbitration expedient quite out of the question.

## THE LICENSING OF THEATRES

### The Distinction between Licensing and Censorship

IT must not be concluded that the uncompromising abolition of all censorship involves the abandonment of all control and regulation of theatres ; rather the contrary. Factories are regulated in the public interest ; but there is no censorship of factories. For example, many persons are sincerely convinced that cotton clothing is unhealthy ; that alcoholic drinks are demoralizing ; and that playing-cards are the devil's picture-books. But though the factories in which cotton, whiskey, and cards are manufactured are stringently regulated under the factory code and the Public Health and Building Acts, the inspectors appointed to carry out these Acts never go to a manufacturer and inform him that unless he manufactures woollens instead of cottons, ginger-beer instead of whiskey, Bibles instead of playing-cards, he will be forbidden to place his products on the market. In the case of premises licensed for the sale of spirits the authorities go a step further. A public-house differs from a factory in the essential particular that whereas

## The Licensing of Theatres 43

disorder in a factory is promptly and voluntarily suppressed, because every moment of its duration involves a measurable pecuniary loss to the proprietor, disorder in a public-house may be a source of profit to the proprietor by its attraction for disorderly customers. Consequently a publican is compelled to obtain a license to pursue his trade ; and this license lasts only a year, and need not be renewed if his house has been conducted in a disorderly manner in the meantime.

### Prostitution and Drink in Theatres

The theatre presents the same problem as the public-house in respect to disorder. To begin with, a theatre is actually a place licensed for the sale of spirits. The bars at a London theatre can be let without difficulty for £30 a week and upwards. And though it is clear that nobody will pay from a shilling to half a guinea for access to a theatre bar when he can obtain access to an ordinary public-house for nothing, there is no law to prevent the theatre proprietor from issuing free passes broadcast and recouping himself by the profit on the sale of drink. Besides, there may be some other attraction than the sale of drink. When this attraction is that of the play no objection need be made. But it happens that the auditorium of a theatre, with its brilliant lighting and luxurious decorations, makes a very effective shelter and background for the display of fine dresses and pretty faces. Consequently theatres have been

used for centuries in England as markets by prostitutes. From the Restoration to the days of Macready all theatres were made use of in this way as a matter of course ; and to this, far more than to any prejudice against dramatic art, we owe the Puritan formula that the theatre door is the gate of hell. Macready had a hard struggle to drive the prostitutes from his theatre ; and since his time the London theatres controlled by the Lord Chamberlain have become respectable and even socially pretentious. But some of the variety theatres still derive a revenue by selling admissions to women who do not look at the performance, and men who go to purchase or admire the women. And in the provinces this state of things is by no means confined to the variety theatres. The real attraction is sometimes not the performance at all. The theatre is not really a theatre : it is a drink shop and a prostitution market ; and the last shred of its disguise is stripped by the virtually indiscriminate issue of free tickets to the men. Access to the stage is also easily obtained ; and the plays preferred by the management are those in which the stage is filled with young women who are not in any serious technical sense of the word actresses at all. Considering that all this is now possible at any theatre, and actually occurs at some theatres, the fact that our best theatres are as respectable as they are is very much to their credit ; but it is still an intolerable evil that respectable managers should have to fight against the free tickets and the disorderly housekeeping of unscrupulous competitors. The dramatic author is

equally injured. He finds that unless he writes plays which make suitable sideshows for drinking-bars and brothels, he may be excluded from towns where there is not room for two theatres, and where the one existing theatre is exploiting drunkenness and prostitution instead of carrying on a legitimate dramatic business. Indeed everybody connected with the theatrical profession suffers in reputation from the detestable tradition of such places, against which the censorship has proved quite useless.

Here we have a strong case for applying either the licensing system or whatever better means may be devised for securing the orderly conduct of houses of public entertainment, dramatic or other. Liberty must, no doubt, be respected in so far that no manager should have the right to refuse admission to decently dressed, sober, and well-conducted persons, whether they are prostitutes, soldiers in uniform, gentlemen not in evening dress, Indians, or what not; but when disorder is stopped, disorderly persons will either cease to come or else reform their manners. It is, however, quite arguable that the indiscriminate issue of free admissions, though an apparently innocent and good-natured, and certainly a highly popular proceeding, should expose the proprietor of the theatre to the risk of a refusal to renew his license.

### Why the Managers dread Local Control

All this points to the transfer of the control of theatres from the Lord Chamberlain to the munici-

pality. And this step is opposed by the long-run managers, partly because they take it for granted that municipal control must involve municipal censorship of plays, so that plays might be licensed in one town and prohibited in the next, and partly because, as they have no desire to produce plays which are in advance of public opinion, and as the Lord Chamberlain in every other respect gives more scandal by his laxity than trouble by his severity, they find in the present system a cheap and easy means of procuring a certificate which relieves them of all social responsibility, and provides them with so strong a weapon of defence in case of a prosecution that it acts in practice as a bar to any such proceedings. Above all, they know that the Examiner of Plays is free from the pressure of that large body of English public opinion already alluded to, which regards the theatre as the Prohibitionist Teetotaler regards the public-house: that is, as an abomination to be stamped out unconditionally. The managers rightly dread this element more than anything else; and they believe that it is so strong in local governments as to be a characteristic bias of municipal authority. In this they are no doubt mistaken. There is not a municipal authority of any importance in the country in which a proposal to stamp out the theatre or even to treat it illiberally would have a chance of adoption. Municipal control of the variety theatres (formerly called music halls) has been very far from illiberal, except in the one particular in which the Lord Chamberlain is equally illiberal. That particular is the assumption



that a draped figure is decent and an undraped one indecent. It is useless to point to actual experience, which proves abundantly that naked or apparently naked figures, whether exhibited as living pictures, animated statuary, or in a dance, are at their best not only innocent, but refining in their effect, whereas those actresses and skirt dancers who have brought the peculiar aphrodisiac effect which is objected to to the highest pitch of efficiency wear twice as many petticoats as an ordinary lady does and seldom exhibit more than their ankles. Unfortunately, municipal councillors persist in confusing decency with drapery; and both in London and the provinces certain positively edifying performances have been forbidden or withdrawn under pressure, and replaced by coarse and vicious ones. There is not the slightest reason to suppose that the Lord Chamberlain would have been any more tolerant; but this does not alter the fact that the municipal licensing authorities have actually used their powers to set up a censorship which is open to all the objections to censorship in general, and which, in addition, sets up the objection from which central control is free: namely, the impossibility of planning theatrical tours without the serious commercial risk of having the performance forbidden in some of the towns booked. How can this be prevented?

### Desirable Limitations of Local Control

The problem is not a difficult one. The municipality can be limited just as the monarchy is limited.

The Act transferring theatres to local control can be a charter of the liberties of the stage as well as an Act to reform administration. The power to refuse to grant or renew a license to a theatre need not be an arbitrary one. The municipality may be required to state the ground of refusal ; and certain grounds can be expressly declared as unlawful ; so that it shall be possible for the manager to resort to the courts for a mandamus to compel the authority to grant a license. It can be declared unlawful for a licensing authority to demand from the manager any disclosure of the nature of any entertainment he proposes to give, or to prevent its performance, or to refuse to renew his license on the ground that the tendency of his entertainments is contrary to religion and morals, or that the theatre is an undesirable institution, or that there are already as many theatres as are needed, or that the theatre draws people away from the churches, chapels, mission halls, and the like in its neighbourhood. The assumption should be that every citizen has a right to open and conduct a theatre, and therefore has a right to a license unless he has forfeited that right by allowing his theatre to become a disorderly house, or failing to provide a building which complies with the regulations concerning sanitation and egress in case of fire, or being convicted of an offence against public decency. Also, the licensing powers of the authority should not be delegated to any official or committee ; and the manager or lessee of the theatre should have a right to appear in person or by counsel to plead against any motion to refuse to grant or renew his

license. With these safeguards the licensing power could not be stretched to censorship. The manager would enjoy liberty of conscience as far as the local authority is concerned ; but on the least attempt on his part to keep a disorderly house under cover of opening a theatre he would risk his license.

But the managers will not and should not be satisfied with these limits to the municipal power. If they are deprived of the protection of the Lord Chamberlain's license, and at the same time efficiently protected against every attempt at censorship by the licensing authority, the enemies of the theatre will resort to the ordinary law, and try to get from the prejudices of a jury what they are debarred from getting from the prejudices of a County Council or City Corporation. Moral Reform Societies, "Purity" Societies, Vigilance Societies, exist in England and America for the purpose of enforcing the existing laws against obscenity, blasphemy, Sabbath-breaking, the debauchery of children, prostitution and so forth. The paid officials of these societies, in their anxiety to produce plenty of evidence of their activity in the annual reports which go out to the subscribers, do not always discriminate between an obscene postcard and an artistic one, or, to put it more exactly, between a naked figure and an indecent one. They often combine a narrow but terribly sincere sectarian bigotry with a complete ignorance of art and history. Even when they have some culture, their livelihood is at the mercy of subscribers and committee men who have none. If these officials

had any power of distinguishing between art and blackguardism, between morality and virtue, between immorality and vice, between conscientious heresy and mere baseness of mind and foulness of mouth, they might be trusted by theatrical managers not to abuse the powers of the common informer. As it is, it has been found necessary, in order to enable good music to be performed on Sunday, to take away these powers in that particular, and vest them solely in the Attorney-General. This disqualification of the common informer should be extended to the initiation of all proceedings of a censorial character against theatres. Few people are aware of the monstrous laws against blasphemy which still disgrace our statute book. If any serious attempt were made to carry them out, prison accommodation would have to be provided for almost every educated person in the country, beginning with the Archbishop of Canterbury. Until some government with courage and character enough to repeal them comes into power, it is not too much to ask that such infamous powers of oppression should be kept in responsible hands and not left at the disposal of every bigot ignorant enough to be unaware of the social dangers of persecution. Besides, the common informer is not always a sincere bigot who believes he is performing an action of signal merit in silencing and ruining a heretic. He is unfortunately just as often a blackmailer, who has studied his powers as a common informer in order that he may extort money for refraining from exercising them. If the manager is to be responsible he should be made

## The Licensing of Theatres 51

responsible to a responsible functionary. To be responsible to every fanatical ignoramus who chooses to prosecute him for exhibiting a cast of the Hermes of Praxiteles in his vestibule, or giving a performance of Measure for Measure, is mere slavery. It is made bearable at present by the protection of the Lord Chamberlain's certificate. But when that is no longer available, the common informer must be disarmed if the manager is to enjoy security.

## SUMMARY

THE general case against censorship as a principle, and the particular case against the existing English censorship and against its replacement by a more enlightened one, is now complete. The following is a recapitulation of the propositions and conclusions contended for.

1. The question of censorship or no censorship is a question of high political principle and not of petty policy.

2. The toleration of heresy and shocks to morality on the stage, and even their protection against the prejudices and superstitions which necessarily enter largely into morality and public opinion, are essential to the welfare of the nation.

3. The existing censorship of the Lord Chamberlain does not only intentionally suppress heresy and challenges to morality in their serious and avowed forms, but unintentionally gives the special protection of its official license to the most extreme impropriety that the lowest section of London playgoers will tolerate in theatres especially devoted to their entertainment, licensing everything that is popular and forbidding any attempt to change public opinion or morals.

4. That the Lord Chamberlain's censorship is open to the special objection that its application to political plays is taken to indicate the attitude of the Crown on questions of domestic and foreign policy, and that it imposes the limits of etiquette on the historical drama.

5. That a censorship of a more enlightened and independent kind, exercised by the most eminent available authorities, would prove in practice more disastrous than the censorship of the Lord Chamberlain, because the more eminent its members were the less possible it would be for them to accept the responsibility for heresy or immorality by licensing them, and because the many heretical and immoral plays which now pass the Lord Chamberlain because he does not understand them, would be understood and suppressed by a more highly enlightened censorship.

6. That a reconstructed and enlightened censorship would be armed with summary and effective powers which would stop the evasions by which heretical and immoral plays are now performed in spite of the Lord Chamberlain, and that such powers would constitute a tyranny which would ruin the theatre spiritually by driving all independent thinkers from the drama into the uncensored forms of art.

7. That the work of critically examining all stage plays in their written form, and of witnessing their performance in order to see that the sense is not altered by the stage business, would, even if it were divided among so many officials as to be physically possible, be mentally impossible to persons of taste and enlightenment.

8. That regulation of theatres is an entirely different matter from censorship, inasmuch as a theatre, being not only a stage, but a place licensed for the sale of spirits, and a public resort capable of being put to disorderly use, and needing special provision for the safety of audiences in cases of fire, etc., cannot be abandoned wholly to private control, and may therefore reasonably be made subject to an annual license like those now required before allowing premises to be used publicly for music and dancing.

9. That in order to prevent the powers of the licensing authority being abused so as to constitute a virtual censorship, any Act transferring the theatres to the control of a licensing authority should be made also a charter of the rights of dramatic authors and managers by the following provisions :

A. That the public prosecutor (the Attorney-General) alone should have the right to set the law in operation against the manager of a theatre or the author of a play in respect of the character of the play or entertainment.

B. That no disclosure of the particulars of a theatrical entertainment shall be required before performance.

C. That licenses shall not be withheld on the ground that the existence of theatres is dangerous to religion and morals, or on the ground that any entertainment given or contemplated is heretical or immoral.

D. That the licensing area shall be no less than that of a County Council or City Corporation, which



shall not delegate its licensing powers to any minor local authority or to any official or committee ; that it shall decide all questions affecting the existence of a theatrical license by vote of the entire body ; that managers, lessees, and proprietors of theatres shall have the right to plead, in person or by counsel, against a proposal to withhold a license ; and that the license shall not be withheld except for stated reasons, the validity of which shall be subject to the judgment of the high courts.

E. That the annual license, once granted, shall not be cancelled or suspended unless the manager has been convicted by public prosecution of an offence against the ordinary laws against disorderly house-keeping, indecency, blasphemy, etc., except in cases where some structural or sanitary defect in the building necessitates immediate action for the protection of the public against physical injury.

F. That no license shall be refused on the ground that the proximity of the theatre to a church, mission hall, school, or other place of worship, edification, instruction, or entertainment (including another theatre) would draw the public away from such places into its own doors.

117283

S83

1909

*Printed by R. & R. CLARK, LIMITED, Edinburgh.*

